

§ 1290.4

12 CFR Ch. XII (1–12 Edition)

recent CRA evaluation is “outstanding.” In determining whether other members meet the first-time homebuyer standard, FHFA will consider a member’s description of its efforts to assist first-time or potential first-time homebuyers or its explanation of factors that affect its ability to assist first-time or potential first-time homebuyers. A member shall be deemed to meet the first-time homebuyer standard if the member otherwise demonstrates to the satisfaction of FHFA that it:

(i) Has an established record of lending to first-time homebuyers;

(ii) Has a program whereby it actively seeks to lend or support lending to first-time homebuyers, including, but not limited to, the following—

(A) Providing special credit products with flexible underwriting standards for first-time homebuyers;

(B) Participating in Federal, State, or local government, or nationwide homeownership lending programs that benefit, serve, or are targeted to, first-time homebuyers; or

(C) Participating in loan consortia for first-time homebuyer loans or loans that serve predominantly low- or moderate-income borrowers;

(iii) Has a program whereby it actively seeks to assist or support organizations that assist potential first-time homebuyers to qualify for mortgage loans, including, but not limited to, the following—

(A) Providing, participating in, or supporting special counseling programs or other homeownership education activities that benefit, serve, or are targeted to, first-time homebuyers;

(B) Providing or participating in marketing plans and related outreach programs targeted to first-time homebuyers;

(C) Providing technical assistance of financial support to organizations that assist first-time homebuyers;

(D) Participating with or financially supporting community or nonprofit groups that assist first-time homebuyers;

(E) Holding investments or making loans that support first-time homebuyer programs;

(F) Holding mortgage-backed securities that may include a pool of loans to

low- and moderate-income homebuyers;

(G) Participating or investing in service organizations that assist credit unions in providing mortgages; or

(H) Participating in Bank targeted community lending programs; or

(iv) Has any combination of the elements described in paragraphs (c)(1)(i), (ii), or (iii) of this section.

(2) *Probationary performance.* If FHFA deems the evidence of first-time homebuyer performance to be unsatisfactory, the member will be subject to a one-year probationary period. The member will be eligible to receive long-term advances during the probationary period. If the member does not demonstrate compliance with the first-time homebuyer standard before the probationary period ends, FHFA will restrict the member’s access to long-term advances in accordance with § 1290.5.

(3) *Inadequate performance.* FHFA will restrict a member’s access to long-term advances in accordance with § 1290.5 if the member provides no evidence of first-time homebuyer performance.

§ 1290.4 Decision on community support statements.

(a) *Action on community support statements.* FHFA will act on each community support statement in accordance with the requirements of § 1290.3 within 75 calendar days of the date FHFA deems the community support statement to be complete. FHFA will deem a community support statement complete when it has obtained all of the information required by this part and any other information it deems necessary to process the community support statement. If FHFA determines during the review process that additional information is necessary to process the community support statement, FHFA may deem the community support statement incomplete and stop the 75-day time period by providing written notice to the member. When FHFA receives the additional information, it shall again deem the community support statement complete and resume the 75-day time period where it stopped. FHFA will have 10 calendar

Federal Housing Finance Agency

§ 1290.5

days in addition to the 75-day time period to act on a community support statement if FHFA receives the additional information on or after the seventieth day of the 75-day time period.

(b) *Decision on community support statements.* FHFA will provide written notice to the member and the member's Bank of its determination regarding the community support statement submitted by the member. The notice will identify the reasons for FHFA's determination.

§ 1290.5 Restrictions on access to long-term advances.

(a) *Requirement.* FHFA will restrict a member's access to long-term advances if the member:

(1) Failed to comply with the requirements of this part;

(2) Submitted a community support statement that was not approved by FHFA;

(3) Did not receive a rating in a CRA evaluation of "outstanding" or "satisfactory" at the end of the probationary period described in § 1290.3(b)(2); or

(4) Failed to provide evidence satisfactory to FHFA of its first-time homebuyer performance before the end of the probationary period described in § 1290.3(c)(2).

(b) *Notice.* FHFA will provide written notice to a member and the member's Bank of its determination to restrict the member's access to long-term advances.

(c) *Effective date.* Restrictions on access to long-term advances will take effect 30 days after the date the notices required under paragraph (b) of this section are sent unless the member complies with the requirements of this part before the end of the 30-day period.

(d) *Removing restrictions.* (1) FHFA may remove restrictions on a member's access to long-term advances imposed under this section:

(i) If FHFA determines that application of the restriction may adversely affect the safety and soundness of the member. A member may submit a written request to FHFA to remove a restriction on access to long-term advances under this paragraph (d)(1)(i). The written request must include a clear and concise statement of the

basis for the request, and a statement that application of the restriction may adversely affect the safety and soundness of the member from the member's appropriate Federal banking agency, or the member's appropriate State regulator for a member that is not subject to regulation or supervision by a Federal regulator. FHFA will consider each written request within 30 calendar days of receipt.

(ii) If FHFA determines that the member subsequently has complied with the requirements of this part. A member may submit a written request to FHFA to remove a restriction on access to long-term advances under this paragraph (d)(1)(ii). The written request must state with specificity how the member has complied with the requirements of this part. FHFA will consider each written request within 30 calendar days of receipt.

(2) FHFA will place a member on probation in accordance with § 1290.3(b)(2), if—

(i) The member's access to long-term advances was restricted on the basis of the member's inadequate performance under the CRA standard, as described in § 1290.3(b)(3);

(ii) The rating in the member's subsequent CRA evaluation is "Needs to Improve;" and

(iii) The member did not receive either a "Substantial Non-Compliance" CRA rating or a "Needs to Improve" CRA rating immediately preceding the CRA rating on which the member's inadequate performance under the CRA standard was based.

(3) FHFA will provide written notice to the member and the member's Bank of its determination under this paragraph (d). FHFA's determination takes effect on the date the notices are sent.

(e) *Community Investment Cash Advance (CICA) Programs.* A member that is subject to a restriction on access to long-term advances under this part is not eligible to participate in a CICA program offered under part 952 of this title and 1291 of this chapter. The restriction in this paragraph (e), does not apply to CICA applications or funding approved before the date the restriction is imposed.